

REMARKS

Applicant cancels claims 15 and 32-35. Claims 1-14 and 16-31 are now pending in the application. The Examiner has withdrawn claims 7-14, 17, 19, and 28-31 from consideration.

The Examiner objected to the drawings for not showing features recited in dependent claims 15-16, 18, and 20-21. Applicant cancels claim 15, and respectfully submits that claims 16 and 18 merely recite features that correspond to the “second modification” described in the specification and claims 20-21 merely recite features that correspond to the “third modification” described in the specification. Please see page 68, line 19 to page 71, line 1 of the specification. Applicant, thus, respectfully submits that these claims merely recite features that correspond to these alternative “modifications” to round out the scope of the claimed invention, and do not recite any features that are crucial to the patentability of the invention—which are recited in base claim 1 from which they depend. Such “modifications” are readily understandable by one skilled in the art by looking at the existing drawings—thus, not requiring a drawing to aid the understanding of the invention.

Applicant respectfully submits that the 37 CFR § 1.83(a) requirements flow from 35 U.S.C. § 113, which is limited to features that are required to understanding the claimed invention:

“The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.”
(Emphasis added)

And, thus, 37 CFR § 1.83(a) does not require the illustration of features that are not essential for a proper understanding of the invention.

In addition, the Examiner has cited U.S. Patent Application Publication No. 2002/0126625 to Liu et al. and U.S. Patent Application Publication No. 2002/0126342 to Wetzel et al., as allegedly rendering the features recited in these claims obvious to the one

skilled in the art at the time the claimed invention was made. Accordingly, Applicant respectfully submits that the application, as filed, adequately discloses the features recited in claims 16, 18, and 20-21, and that an illustration thereof is not necessary for the understanding of the subject matter sought to be patented nor do such features admit to illustration required for such understanding by one skilled in the art at the time the claimed invention was made. And Applicant, thus, respectfully requests that the Examiner withdraw the objection.

The Examiner objected to Figs. 1-4C under MPEP § 608.02(g) for failing to designate that which is old as “Prior Art.” Applicant submits herewith Replacement Sheets for these figures with the added caption, and, accordingly, respectfully requests that the Examiner withdraw the objection.

Claims 1-6, 15-16, 18, and 20-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0126625 to Liu et al. in view of U.S. Patent Application Publication No. 2002/0126342 to Wetzel et al.; and claims 32-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al., Wetzel et al., and further in view of U.S. Patent No. 7,046,928 to Bradford et al. Applicant cancels claims 15 and 32-35, and respectfully traverses the rejection of claims 1-6, 16, 18, and 20-27.

The Examiner relied upon the description in Liu et al. of a connect discovery message being sent from one node to another as alleged suggestion of the features of the claimed first transmission unit. The cited portions of Liu et al. only include description of senders and receivers at respectively nodes for communications, and do not include any disclosure or suggestion of the structural relationships between any sending unit or receiving unit at the respective nodes. In other words, Liu et al., as cited and relied upon by the Examiner, fail to disclose or suggest the claimed “first transmission unit provided on an input side of the first

optical switch configured to transmit a first control message including a transmission port number of a transmission port for transmitting the first control message.”

The Examiner conceded that Liu et al. fail to disclose the features of the claimed transmission port control unit, and relied upon the description in Wetzel et al. of signals being sent to “each of the ports by routing” as alleged suggestion of the claimed features. Such portions of Wetzel et al. merely describe signals being routed to respective ports and do not disclose or suggest the sequential or temporal element in transmitting the signals. In other words, such portions merely suggest that a signal is transmitted to each of the ports, but do not disclose or suggest any significance of any timing or order in which the signals are sent to “each of the ports.”

In other words, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Liu et al. and Wetzel et al., such a combination would still have failed to disclose or suggest,

“[a] optical transmission system including:
a first optical transmission apparatus having a first optical switch; and
a second optical transmission apparatus having a second optical switch,
said optical transmission system being capable of setting a connection relation between the first optical transmission apparatus and the second optical transmission apparatus,
wherein
the first optical transmission apparatus includes:
a first transmission unit provided on an input side of the first optical switch configured to transmit a first control message including a transmission port number of a transmission port for transmitting the first control message; and
a transmission port control unit configured to control the first optical switch so that the first control message is transmitted through different transmission ports sequentially,” as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 2-6, 16, 18, and 20-21 dependent therefrom, is patentable over Liu et al. and Wetzel et al., separately and in combination, for at least the above-stated reasons. Claims 22 and 25 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claims 23-24 and 26-27 dependent therefrom, respectively, patentable over the cited references for at least the same reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

/Dexter T. Chang/
Dexter T. Chang
Reg. No. 44,071

CUSTOMER NUMBER 026304
Telephone: (212) 940-6384
Fax: (212) 940-8986 or 8987
Docket No.: FUJI 20.965 (100794-00559)